

Application No.: 10/030,803
Filing Date: April 9, 2002
Page No.: 14

REMARKS

This Amendment is in response to the Notice of Non-Compliant Amendment ("Notice") mailed November 8, 2005. The Notice indicates that Applicants' Preliminary Amendment of October 26, 2005 fails to present the claims in ascending numerical order, as Claims 1 through 17 were originally filed in the case.

The above-referenced case claims priority to PCT Application PCT/EP00/06214, filed July 4, 2000. PCT/EP00/06214 contained 15 claims. PCT/EP00/06214 was then amended during foreign prosecution, apparently on September 4, 2001, to include 17 claims.

The above-referenced case subsequently entered the United States national phase on January 11, 2002. A Preliminary Amendment was included within the national phase entry package of January 11, 2002. The Preliminary Amendment directed the substitution of 16 claims in conformance with United States practice for the claims as outstanding within the foreign prosecution on January 11th.

The PTO PAIR System; Image File Wrapper contains a Claim Worksheet having a Mail Room Date of January 11, 2002. The Claim Worksheet of January 11, 2002 incorrectly indicates the initial pendency of 19 claims (presumably the original PCT/EP00/06214 submission that contained only 15 claims) and further indicated the pendency after a 1st amendment (presumably the foreign amendment) of 17 claims. The Claim Worksheet makes no mention of the Preliminary Amendment.

The PTO PAIR System; Image File Wrapper then contains an Index of Claims having a Mail Room date of June 27, 2005. The Index of Claims indicates the pendency of 16 claims, i.e. the Preliminary Amendment appears to have been entered on or before June 27, 2005.

Application No.: 10/030,803
Filing Date: April 9, 2002
Page No.: 15

A Restriction was subsequently issued in the above-referenced case on July 27, 2005. The Office Action Summary for the Restriction indicates that Claims 1 through 16 were pending within the case as of July 27, 2005, confirming the Index of Claims of June 27, 2005. The body of the Restriction likewise indicates the pendency of 16 claims, i.e. the body of the Restriction also fails to note the presence of a Claim 17 within the enumerated claims. (Restriction of 7/27/05; Paragraph 2).

In response to the Restriction, Applicants submitted a second Preliminary Amendment on October 26, 2005. The Preliminary Amendment of October 26, 2005 revised various claims within the 16 claims as-submitted within the Preliminary Amendment of January 11, 2002 and added two new claims, i.e. Claims 17 and 18.

The PTO PAIR System; Image File Wrapper subsequently indicates the issuance of a Fee Worksheet having a Mail Room date of October 27, 2005. Rather than reflect the pendency of 18 total claims, the Fee Worksheet of October 27, 2005 indicates the pendency of 19 claims, i.e. the Preliminary Amendment of January 11, 2002 appears not to have been entered.

Applicants' Representative remains confused as to the state of the pending claims. Despite the best efforts of both parties, Applicants' Representative and the Examiner have been unable to make contact. The Examiner was so kind, however, as to speak with Ms. Wygand several weeks ago. Consequently, solely in an effort to advance prosecution of the case, Claim 17 has been canceled, and Claims 18 and 19 have been added as new claims, as the Examiner had previously discussed with Ms. Wygand.

Applicants' Representative trusts that this amendment addresses the outstanding conformance issue. However, should it prove more advantageous, Applicants' Representative is prepared to cancel all claims and present a new claim set numbered consecutively beginning at Claim 20. It is respectfully requested that the Examiner telephone the undersigned if this or any other action may be taken to expedite

Application No.: 10/030,803
Filing Date: April 9, 2002
Page No.: 16

examination of this application. It is particularly respectfully requested that the Examiner telephone the undersigned if the Preliminary Amendment of January 11, 2002 was ultimately denied entry. In particular, the Preliminary Amendment of October 26, 2005 was intended to revise the text of the claims as submitted within the Preliminary Amendment of January 11, 2002.

It is respectfully submitted that Applicants have made a significant and important contribution to the art, which is neither disclosed nor suggested in the art. It is believed that all of pending Claims 1 through 16, 18 and 19 are now in condition for immediate allowance. It is requested that the Examiner telephone the undersigned if any questions remain to expedite examination of this application.

It is not believed that extensions of time or fees are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time and/or fees are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required is hereby authorized to be charged to Deposit Account No. 50-2193.

Respectfully submitted,



Cathy R. Moore
Reg. No. 45,764

ProPat, L.L.C.
425-C South Sharon Amity Road
Charlotte, NC 28211-2841
Telephone: (704) 365-4881
Fax: (704) 365-4851
Customer No. 38263

Application No.: 10/030,803
Filing Date: April 9, 2002
Page No.: 17

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at facsimile number (571) 273-8300 on November 29, 2005.


Claire Wygand